

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
Mark Richard Van Elzen, D.V.M.
Applicant for Licensure

STIPULATION AND ORDER

STIPULATION

Mark Richard Van Elzen, D.V.M. ("Applicant"), and the Minnesota Board of Veterinary Medicine Complaint Review Committee ("Committee") agree that the above-referenced matter may be resolved by mail without trial of any issue or fact as follows:

I.

JURISDICTION

1. The Minnesota Board of Veterinary Medicine ("Board") is authorized pursuant to Minnesota Statutes chapter 156 to license and regulate veterinarians and to take disciplinary action as appropriate.

2. Applicant has applied for licensure as a veterinarian in the State of Minnesota and is subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation and Order.

II.

COMPLAINT REVIEW COMMITTEE

The Committee that negotiated this Stipulation with Applicant is composed of Joanne Schulman, D.V.M., and Barbara Fischley, D.V.M. Karen B. Andrews, Assistant Attorney General, represents the Committee. Applicant was advised by the Board's representatives that

she may choose to be represented by legal counsel in this matter. Licensee knowingly waived legal representation.

III.

FACTS

The parties agree this Stipulation and Order is based upon the following facts:

1. On March 15, 2012, Applicant submitted an application for licensure as a veterinarian to the Board. On the application, Applicant answered "no" to the question, "*Has your veterinary or other occupational license ever been reprimanded, censured, restricted or subject to disciplinary or corrective action in any state, territory or country?*"

2. Applicant failed to disclose that he was subject to disciplinary action in Illinois in February 2005.

IV.

LAWS

Applicant acknowledges the conduct described in section III. above constitutes a violation of Minnesota Statutes section 156.081, subdivision 2(1) and (5) and justifies the disciplinary action described in section V. below.

V.

REMEDY

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

1. The Board hereby **GRANTS** Applicant a license to practice veterinary medicine in the State of Minnesota upon Applicant's successful completion of all applicable requirements for licensure.

2. The Board **REPRIMANDS** Applicant for the conduct outlined in section III. above.

3. The Board imposes an **ADMINISTRATIVE PENALTY** in the amount of \$500. The administrative penalty shall be paid by cashier's check or money order made payable to the Minnesota Board of Veterinary Medicine and shall be delivered personally or by certified mail to the Minnesota Board of Veterinary Medicine, c/o Dr. John King, Executive Director, 2829 University Avenue S.E., Suite 540, Minneapolis, Minnesota 55414, within 60 days from the date of this Stipulation and Order.

VI.

CONSEQUENCES OF A VIOLATION

1. *Hearing Before the Board.* If the Committee determines that Licensee has violated any term or condition of this Stipulation and Order, the Committee may schedule a hearing before the Board and serve on Licensee a Notice of Hearing for Alleged Noncompliance With Stipulation and Order ("Notice"), which sets forth the allegations against Licensee and provides Licensee notice of the date, time, and place of the hearing before the Board. The procedures set forth in paragraph 2 below shall apply to the hearing.

2. *Hearing Procedures.* The following procedures shall apply:

a. *Response to Allegations in Notice.* At least seven days before the hearing, Licensee shall submit a written response to the allegations set forth in the Notice. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

b. *Hearing Before Board.* The Board shall hold a hearing before its own members in accordance with the procedures set forth in paragraph VI.B.3. below to determine whether the allegations are true and, if so, whether to take additional disciplinary action against

Licensee, which may include any of the forms of disciplinary action set forth in Minnesota Statutes section 156.127.

c. *Evidence at Hearing/Burden of Proof/Waiver of Hearing Before Administrative Law Judge.* At the hearing before the Board, the Committee and Licensee may present affidavits made on personal knowledge or authenticated documents and may present argument based on such evidence in support of their positions. The record before the Board shall be limited to such affidavits, documents, and this Stipulation and Order. The Committee shall file with the Board all evidence it intends to present at the hearing and shall serve a copy on Licensee at least 14 days before the hearing. Licensee shall file with the Board all evidence she intends to present at the hearing and shall serve a copy on the Committee at least seven days before the hearing. The Committee must prove by a preponderance of the evidence that Licensee has violated this Stipulation and Order. The Board shall issue a final order within 30 days of the hearing. Licensee waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

d. *Costs.* If the Committee proves by a preponderance of the evidence that Licensee has violated this Stipulation and Order, the Board may require Licensee to pay costs of the proceedings. The costs of the proceedings may include the cost paid by the Board to the Office of the Attorney General for investigative and legal services, the cost of reproducing records and documents, Board staff time, travel costs and expenses, and Board members' per diem reimbursements, travel costs, and expenses.

3. *Statutory Procedures.* Nothing herein shall limit the Committee's right to attempt to resolve an alleged violation of this Stipulation and Order through the procedures of Minnesota

Statutes section 214.103, subdivision 6, or to initiate a contested case proceeding under Minnesota Statutes chapter 14 based on an alleged violation of this Stipulation and Order.

VII.

ADDITIONAL INFORMATION

1. Applicant knowingly and voluntarily waives a contested case hearing and all other procedures before the Board to which Applicant may be entitled under the Minnesota and United States constitutions, statutes, or rules.

2. Applicant knowingly and voluntarily waives any and all claims against the Board, the Minnesota Attorney General, the State of Minnesota, and their agents, employees and representatives related to the investigation of the conduct herein, or the negotiation or execution of this Stipulation and Order, which may otherwise be available to Applicant.

3. This Stipulation and Order, the files, records and proceedings associated with this matter shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

4. Applicant shall be responsible for all costs incurred as a result of compliance with this Stipulation and Order.

5. Applicant has read, understands, and agrees to this Stipulation and Order and has voluntarily signed the Stipulation and Order. Applicant is aware that this Stipulation and Order must be approved by the Board before it goes into effect. The Board may either approve the Stipulation and Order as proposed, approve it subject to specified change, or reject it. If the changes are acceptable to Applicant, the Stipulation and Order will take effect and the Order as modified will be issued. If the changes are unacceptable to Applicant or if the Board rejects the Stipulation and Order, it will be of no effect except as specified in paragraph 6 below.

6. Applicant agrees that if the Board rejects this Stipulation and Order or a lesser remedy than indicated in this settlement, and this case comes again before the Board, Applicant will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Order or of any records relating to it.

7. This Stipulation and Order shall not limit the Board's authority to proceed against Applicant by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or omission of Applicant which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

VIII.

DATA PRACTICES NOTICES

1. This Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 4.

2. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation.


MARK RICHARD VAN ELZEN, D.V.M.
Applicant

Dated: 5-16-, 2012

ORDER

Upon consideration of the Stipulation and all the files, records and proceedings herein, the terms of the Stipulation are approved and adopted, and the recommended remedy set forth in the Stipulation is hereby issued as an Order of this Board effective this 16 day of May, 2012.

MINNESOTA BOARD
OF VETERINARY MEDICINE



JOHN KING, D.V.M.
Executive Director

AG: #3013720-v1